

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
Civil Action No. 3:20-cv-564**

KEITH HAWTHORNE et al.,)	DEFENDANTS THE HOWEY CO.,
)	INC.'S, CAMDEN LAND CO., LLC'S,
Plaintiffs,)	STGE INVESTMENTS, LLC'S, DEEPE,
)	LLC'S, FM CAPITAL, LLC'S, AND
vs.)	DAVID S. HOWEY'S MOTION TO
)	DISMISS PLAINTIFFS' AMENDED
HIGH TENSION RANCH, LLC, et al.,)	COMPLAINT
)	
Defendants.)	
)	

COME NOW Defendants THE HOWEY CO., INC., CAMDEN LAND CO., LLC, STGE INVESTMENTS, LLC, DEEPE, LLC, FM CAPITAL, LLC, and DAVID S. HOWEY (the "Howey Defendants"), pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure, hereby moving the Court for an order dismissing claims of the Amended Complaint filed by Plaintiffs as follows: claims one, two, four, seven, eight, nine, and ten as to all parties.

MOTION TO DISMISS

Pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure, Defendants move the Court to dismiss the fraudulent conveyance claim under 11 U.S.C. § 544 and S.C. Code Ann. § 27-23-10, the fraudulent conveyance claim under 11 U.S.C. § 548 and 11 U.S.C. § 550, and the recovery of avoided transfers and judgment against defendants for value of fraudulent conveyance claim pursuant to 11 U.S.C. § 550(a)(1) of the Amended Complaint (claims seven, eight, and nine) for lack of subject matter jurisdiction. Furthermore, and pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, Defendants move the Court to dismiss the breach of fiduciary duty claim, the constructive fraud claim, the conversion claim, and the civil RICO claim of the Amended Complaint (claims one, two, four, and ten) for failure to state a claim upon which relief can be granted.

WHEREFORE, Defendants pray the Court that:

1. For the reasons set forth herein, and those contained within its Brief in Support of this Motion, the Court enter an Order dismissing claims one, two four, seven, eight, nine, and ten, of the Amended Complaint with prejudice;
2. The Court tax all costs and expenses against Plaintiffs; and

3. The Court provide to the Howey Defendants such other and further relief as the Court deems reasonable and just.

Respectfully submitted, this the 15th day of March 2021.

Johnston, Allison, & Hord, P.A.

/s/ Robert L. Burchette

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